

ICEX/SIDE

11 November 1967

MEMORANDUM FOR THE RECORD

SUBJECT: Legal Processing of Civilian Security Suspects

1. To meet the requirement for expeditious means to try an expected substantial number of civilian security suspects at proposed new detention camps and elsewhere, arrangements have been worked out with the GVN for increased Military Field Court facilities. This involves de facto extension of the jurisdiction of these courts over a broader range of security offenses and authorization of four additional such mobile courts, for a total of eight.

2. An English translation of Decree-Law No. 049/67, dated 30 October 1967 and signed by the Chief of State, which authorized organization of the four additional courts as needed, is attached. It was necessary to act rapidly in seeking this decree since the President, to be inaugurated 31 October 1967 under the new Constitution, would have no authority under that document to issue such an order.

3. The capability is thus now available to try many more civilian security suspects by use of Military Field Courts, which are mobile and have a streamlined procedure without appeal. However, before any additional courts are organized it will be necessary to make a thorough study of the backlog and volume of civilian security cases, the prior and present handling of these cases by the Provincial Security Committees and the military courts, and the expected security offense case load for field courts in the various Regions of the country. On a related matter, the Staff Judge Advocate, MACV\*, has been asked to study a sample of at least fifty cases decided by the Military Field Court in Saigon, to determine the offenses charged and the disposition thereof. This should give some preliminary idea as to the nature and difficulty of the cases.

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\*The work on this matter has been a joint undertaking with the Staff Judge Advocate, MACV, who has a close working relationship with the Directorate of Military Justice, under which come the military courts. SJA/MACV also has representatives who cover the various Regions of the country. It is expected that SJA/MACV will continue to work on the development of this program.

4. As to the past case load of the military courts, a review of the files at the Directorate of Military Justice (DMJ), made by representatives of the Staff Judge Advocate, MACV, has produced the following figures:

Security Offenders Tried and Convicted

	<u>12 Months - Jan-Dec 66</u>	<u>6 Months - Jan-June 67</u>
Regular Military Courts	2,095	1,203
Military Field Courts	314	334
Total	<u>2,409</u>	<u>1,537</u>

The field court figures are said to include virtually all of the more serious security matters, such as treason, sabotage and terrorism. The Director of Military Justice has indicated that, in the future, field courts will be able to act on the bulk of civilian security cases, in accordance with arrangements reported in my Memorandum of 2 October 1967, entitled "Expansion of Military Field Courts." The remaining such cases will be tried in the regular military courts.


5. The above figures indicate that the volume of security cases in the military courts has been growing and that the field courts were handling an increased proportion of the cases. SJA/MACV has been informed that the existing four field courts are quite busy and have a substantial backlog of work. They handle a large number of desertion and draft evasion matters and expect a big increase in the category of economic offenses.

6. Great dissatisfaction exists on the US side with what is considered the improper release of civil detainees by the GVN and the inordinate slowness of legal processing, resulting in large numbers of detainees awaiting disposition of their cases. The shortage and inadequacy of detention facilities is being attacked by an ICEX/SIDE construction program. A principal reason given for reluctance of the authorities to arrest or hold suspects will thereby be removed or reduced in importance.

7. The aspects of the problem which are concerned with arrest, temporary custody, trial, sentencing or administrative detention, and imprisonment of offenders involve much more than laws and regulations. It is necessary also to understand the inner attitudes of the authorities and citizens of this

country and the manner in which the GVN prefers or is accustomed to deal with its fellow countrymen who are suspected of security offenses. We must appraise the desire and will to take legal measures against the various classes of suspects and the willingness of witnesses to testify in court against persons accused of VC activity. A feel for this, and for practicable means to bring about a more aggressive approach, should be acquired in the course of the studies recommended above, which should take into account changing attitudes, practices and conditions when estimating the future case load for the military courts and security committees.

8. Persistent and imaginative follow-up will be the key to success in the program to expedite the legal processing of Civilian Security Suspects and incarcerate the guilty.

  
Legal Counsel

STAT

DECREE LAW #049/67 dated 30 October 1967 prescribing the establishment of four additional mobile Military Field Courts.

THE CHAIRMAN OF THE NATIONAL DIRECTORY

Considering the Constitution of the Republic of Vietnam, dated 1 April 67;

Considering Decision #3/OLVNCH/QD dated 14 June 1965, amended by Decision #7/OLVNCH/QD dated 6 June 1966, of the RVNAF General Council prescribing the establishment and the composition of the National Directory;

Considering Decree #001-a/CT/LDQG/SL dated 19 June 1965 and subsequent documents prescribing the composition of the Office of the Prime Minister;

Considering Ordinance #001/UELDQG dated 24 June 1965 promulgating the State of War throughout the territory of the Republic of Vietnam;

Considering Ordinance #8 dated 14 May 1951 promulgating the Code of Military Justice;

Considering Decree-Law #11/62 dated 21 May 1962 and subsequent documents prescribing the establishment of Military Field Courts;

Considering Decree #205/CT/LIXQG/SL dated 2 December 1965 prescribing regulations governing the organization and responsibilities of agencies subordinate to the Ministry of National Defense and the RVNAF;

Upon recommendation of the Office of the Prime Minister;

After deliberation and approval by the National Directory;

ISSUES THE FOLLOWING DECREE-LAW:

ARTICLE 1. There are hereby established four additional mobile Military Field Courts, for the trial of offenses against the National security.

ARTICLE 2. These courts will be organized as needed, in the various Corps Tactical Zones.

ARTICLE 3. The Prime Minister, Ministers, and the Secretaries of National Defense, Justice, and Finance will carry out this Decree-Law in accordance with their official responsibilities.

This Decree-Law will be published pursuant to emergency procedures.

SAIGON, 30 October 1967

ADDRESSES:

- Office of the Prime Minister
- Cabinet
- Subordinate Agencies
- Office of the Deputy Prime Minister
- Upper House
- Lower House
- Ministry of National Defense
- Ministry of Justice
- Ministry of Finance
- Ministry of Interior
- Corps Tactical Zones
- Mayors and Provincial Governors
- Official Gazette

Signed: LT GENERAL NGUYEN VAN THIEU

OFFICIAL COPY:

Director of the Cabinet  
Signed: Colonel VU DUC NHUAN

CERTIFIED TRUE COPY

Chief of Press Service & Official Gazette,  
Office of the Prime Minister

Signed: HUYNH QUANG MINH

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